

The Senate has been in session nearly continuously for months. Earlier this year, Senator CANTWELL and I introduced a bill to extend the tax credit for 5 years and change it to a production tax credit. There is no excuse for inaction on this credit. The Democratic leadership is content to leave without doing the necessary work on extenders, believing they can extend the tax provisions retroactively sometime early next year. Retroactivity does work a lot of times on tax extenders that are not extended at the end of the year and extended to be made retroactive. But retroactivity in the case of the biodiesel market doesn't help bring it from grinding to a halt on January 1, 2010, because without the incentive, the biodiesel will cost much more than petroleum diesel.

While the House and Senate dither, thousands will lose their jobs, but demand for dirty, imported petroleum diesel, however, will continue. Investments in the domestic renewable fuels industry will lose value and possibly disappear—quite to the contrary of what I said in my remarks of yesterday, the President announcing various tax credits. So this one has been on the books. All it has to be is reauthorized.

It is too bad that among all the talk of green jobs and the clean energy economy, Congress is unable to pass a simple extension of an existing tax credit. Once again, the actions of the majority do not match their words. For all the talk, they will have failed all those in the biodiesel industry working today to reduce our dependence upon foreign oil if we leave without extending this critical tax credit before the end of the year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, we have conferred with the other side of the aisle, and I think we have reached an agreement. I ask unanimous consent to be allowed to speak for up to 10 minutes, and then I believe two Senators from the other side of the aisle would like to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, it just shows we can do some things in a bipartisan way around here still, albeit small things.

We are talking about the Defense appropriations bill. I think it is important to point out that the majority leader has waited until the very last minute to bring up this very important bill, which I am sure will pass by a large majority, but it was 2 months ago that the fiscal year ended. The majority leader has now left us here 8 days before Christmas with a lot on our plate, a lot yet to do, and, of course, threatening to keep Congress here through Christmas—certainly up to Christmas. I would not say we are happy to be here, but this is a great responsibility. These are important issues, and none of us is going to shy

away from dealing with these issues, albeit 8 days before Christmas.

It is also appropriate to talk about Christmas because this bill not only funds our troops, it is a Christmas tree on which Members of Congress have hung nice shiny little ornaments, provisions that have nothing to do with funding our troops and the Defense appropriations bill. As a matter of fact, this bill would actually create new entitlement spending programs—that is what some of these little shiny ornaments are—rather than fix the ones we have. It is significant. We are talking about our troops. At the same time, we are talking more generally about health care, because under Federal law TRICARE, which handles the reimbursement rates for health care for our troops and their families, is required under Federal law to follow Medicare reimbursement rates.

We know that under the underlying health care bill we will be considering up until Christmas, it looks like there are actually going to be \$500 billion in cuts to Medicare. The concern is, if access to care is jeopardized for Medicare beneficiaries, which we know it will be for at least some—particularly Medicare Advantage beneficiaries—then cuts to TRICARE reimbursement rates could follow.

We also know this bill includes a 2-month bandaid for the Medicare reimbursement rate for doctors, the so-called doc fix. This is the sustainable growth rate formula which has never worked since Congress passed it in 1997. It shows Congress makes assumptions—this one back in 1997—that we are going to cut Medicare, and in this particular instance Medicare reimbursement rates for doctors and that somehow that will not have a negative impact on people's ability to find a doctor who will see them.

I know in Travis County in Austin, TX, at last report, only 17 percent of doctors will see a new Medicare patient, and it is even worse for Medicaid, which pays less than Medicare. So we know the cuts the underlying health care bill will make to Medicare are going to have a negative impact on access to care for many of our seniors, and because TRICARE rates are linked to Medicare rates under Federal law, they could well jeopardize our troops' and their dependents' access to care as well.

This experience we have had since 1997 under the Balanced Budget Act with the sustainable growth rate which, unless Congress acts, will actually cut reimbursement rates for doctors by 23 percent—and this bill provides a 2-month—a 2-month—fix—these assumptions have never worked. Yet this health care bill, at least the 2,074-page version—we have yet to see the Reid substitute, which will appear, I am sure, miraculously sometime around Saturday as the majority leader tries to cram this bill through before Christmas—we know it contains or will contain many other assumptions, such

as this SGR formula that will prove unenforceable and will never work. Yet those will be used by the Congressional Budget Office to provide a cost estimate or score which may meet the demands of politics today but which will bear no relationship whatsoever to the ultimate costs. And the American people understand that. They understand the budget gimmicks of having a 10-year program and not implementing it until year 4 but starting the taxes to pay for it on day one. They understand that, and that is why they don't trust the Congress to be honest and transparent when it comes to spending their money—because of their unfortunate experience.

I also want to focus on other promises the President has made about health care reform which bear on the process by which health care reform and these bills are being considered—unfortunately, ways in which the Reid bill breaks those promises. This is one we have talked about before, but I think it bears repeating because the American people want us to read the bills before we vote on them. They want to be able to read the bills and to have them posted on the Internet so they can understand how this legislation will impact them and their families.

Here is what the President said:

I'm going to have all the negotiations [the health care negotiations] around a big table. We'll have negotiations televised on C-SPAN, so that people can see who is making arguments on behalf of their constituents and who is making arguments on behalf of the drug companies or the insurance companies.

I see one of our colleagues on the floor, who is a chief proponent of an amendment that had to do with drug pricing. We all know it is the worst-kept secret in Washington, DC, that the drug companies have cut a special deal behind closed doors—not around a big round table on C-SPAN but behind closed doors—and many of us don't know the exact terms of this deal. We do know that while the big drug companies may be protected, the American people are not at the table while special interests are cutting deals that have not yet fully come to the light of day. I think this is a tragedy. There is no reason the President's promise cannot be kept, other than to try to run something by Congress and the American people before they have had a full opportunity to read it and understand what is in it.

This is exactly the kind of cynical act that breeds public skepticism about Congress and their elected representatives. We are elected by the people in our States to use our best judgment on their behalf, listen to them, and ask: What do you think about this? Tell me, as your elected representative, how do you think I should vote on these important issues? If we hide the substance of these cooked-up deals behind closed doors from the American people, no wonder the congressional approval